

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
NORTHEASTERN DIVISION

JOHN PRINCE,	)	
	)	
Plaintiff,	)	
v.	)	Case No.: 5:20-cv-00208-LCB
	)	
HUI HULIAU, DERYL WRIGHT, and	)	<b>OPPOSED</b>
HOWARD RUSSELL,	)	
	)	
Defendants.	)	

**DEFENDANTS' MOTION FOR  
PARTIAL DISMISSAL OF PLAINTIFF'S COMPLAINT**

Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, defendants Hui Huliau ("H2"), Deryl Wright ("Wright"), and Howard Russell ("Russell") (collectively, "Defendants") hereby move the Court to dismiss the cause of actions for breach of fiduciary duty, fraudulent suppression, and tortious interference with contractual relationships contained in Plaintiff's Complaint on the grounds that such causes of action fail to state a claim for relief. In support of Defendants' Motion, Defendants rely upon each of the following items: the complaint, the supporting brief filed contemporaneously with this motion, and all applicable procedural and substantive laws. As grounds, Defendants state:

1. Plaintiff opposes this Motion. This was confirmed through email communications with Plaintiff's counsel.

2. Plaintiff filed his Complaint in this case on February 14, 2020 in the Circuit Court of Madison County, Alabama. (Doc. 1-1). That same day, Defendants removed the case to this Court, making Defendants' response to the complaint due by March 6, 2020. (Doc. 1).

3. On February 28, 2020, Defendants filed an unopposed Motion for Enlargement of Time to Respond to Plaintiff's Complaint. (Doc. 13). The Court granted Defendants' Motion for Enlargement of Time, ordering that Defendants have until March 20, 2020 to answer or otherwise respond to Plaintiff's Complaint. (Doc. 15).

4. A motion to dismiss tests whether the plaintiff has properly stated a claim upon which relief can be granted. Fed. R. Civ. P. 12(b)(6).

5. While the Court must accept well-pleaded factual allegations and draw reasonable inferences in favor of the plaintiff, the Court need not accept the truth of legal conclusions merely because they are cast in the form of factual allegations. *See Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 585 (2007) (citation omitted).

6. Plaintiff's breach of fiduciary duty claim (Count II) should be dismissed because Plaintiff cannot establish a plausible fiduciary relationship with H2.

7. Plaintiff's fraudulent suppression claim (Count III) should be dismissed because: (1) Defendants were under no duty to disclose; (2) the Complaint does not

satisfy the particularity requirements of Rule 9(b) of the Federal Rules of Civil Procedure; and (3) the economic loss rule precludes recovery in tort when there is an adequate remedy through contract.

8. Plaintiff's tortious interference with contractual relationships claim (Count IV) should be dismissed because Plaintiff cannot prove that Wright and Russell were "strangers" to the contracts at issue.

**WHEREFORE**, Defendants respectfully request that the Court enter an Order granting their Motion for Partial Dismissal of Plaintiff's Complaint and dismissing, with prejudice, Plaintiff's claims for breach of fiduciary duty (Count II), fraudulent suppression (Count III), and tortious interference with contractual relationships (Count IV), against respective Defendants.<sup>1</sup>

[INTENTIONALLY LEFT BLANK]

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<sup>1</sup> This motion does not address the claims asserted by Plaintiff in Counts I, V, or VI. (Doc. 1-1, ¶¶ 36-40, 57-67). Defendants will respond to all remaining claims after the Court rules on this motion for partial dismissal.

S/Lauren A. Smith

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C. Gregory Burgess (ASB-1519-R79C)

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## CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of March, 2020, I electronically filed the foregoing with Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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*S/Lauren A. Smith*

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